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Attorneys for Creditors
MARINA GELMAN and MIKHAIL GELMAN

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION,

-and-

PACIFIC GAS AND ELECTRIC COMPANY,

Debtors.

Case No. 19-30088 (DM)

Chapter 11

(Lead Case - Jointly Administered)

**DECLARATION OF DAVID W. WESSEL
IN SUPPORT OF GELMANS' MOTION
FOR RELIEF FROM THE AUTOMATIC
STAY AND ABSTENTION PURSUANT TO
28 U.S.C. 1334(C)(1)**

- ☐ Affects PG&E Corporation
☒ Affects Pacific Gas and Electric Company
☐ Affects both Debtors

* All papers shall be filed in the Lead Case,
No. 19-3008 (DM).

Date: April 24, 2019

Time: 9:30 a.m.

Ctrm: Hon. Dennis Montali
450 Golden Gate Avenue
16th Floor, Courtroom 17
San Francisco, CA 94102

I, David W. Wessel, state:

1. I make this declaration in support of Marina Gelman's and Mikhail Gelman's motion for relief from the automatic stay so they can prosecute their action known as *Gelman v. Pacific Gas and Electric Company*, Case No. CGC-17-556763 in the Superior Court of the State of California,

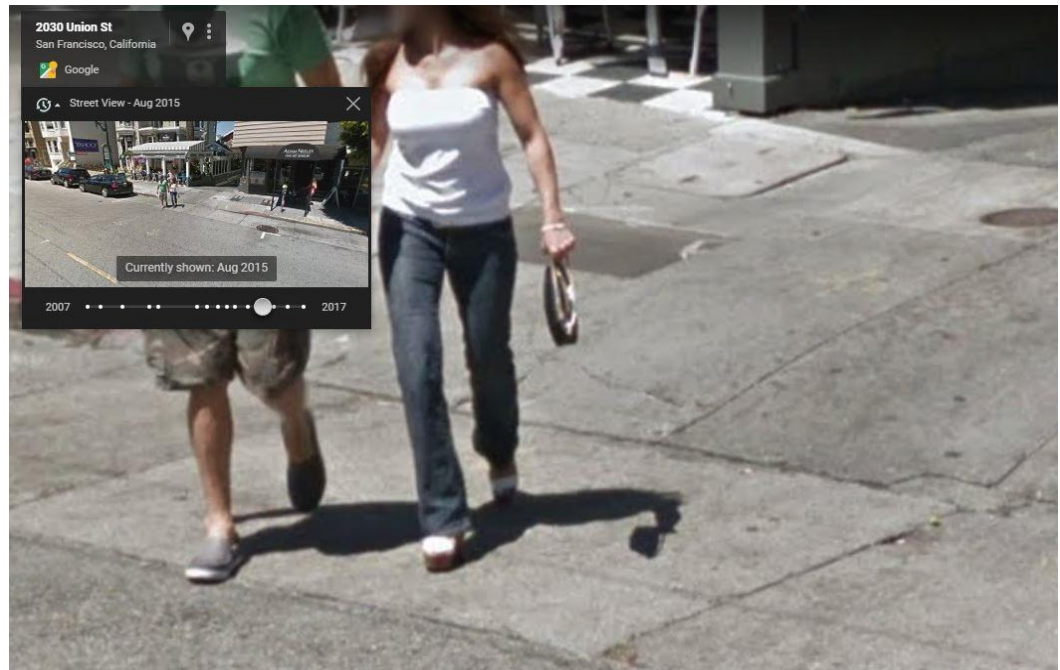
1 County of San Francisco (“the Lawsuit”). I have been the principal lawyer for the Gelmans in the
2 Lawsuit. I have appeared on the Gelmans’ behalf at all depositions taken in the Lawsuit. I attended
3 the medical examination of Marina Gelman. I propounded most of the discovery propounded to the
4 defendants. The matters stated in this declaration are either personally known to me or known to
5 me on information and belief because of my involvement as the lawyer for the Gelmans in the
6 Lawsuit. On that basis, if called as witness, I could and would competently testify to the matters set
7 out in this declaration.

8 2. In the Lawsuit, the Gelmans, who are married, contend that in the evening of January
9 26, 2016, Marina Gelman tripped on the PG&E vault in the San Francisco sidewalk in front of the
10 Palm House Restaurant owned by Blue Plantain, LLC. There was a hole in the sidewalk at the
11 corner of the PG&E vault. This is a photograph of the sidewalk with the PG&E vault:

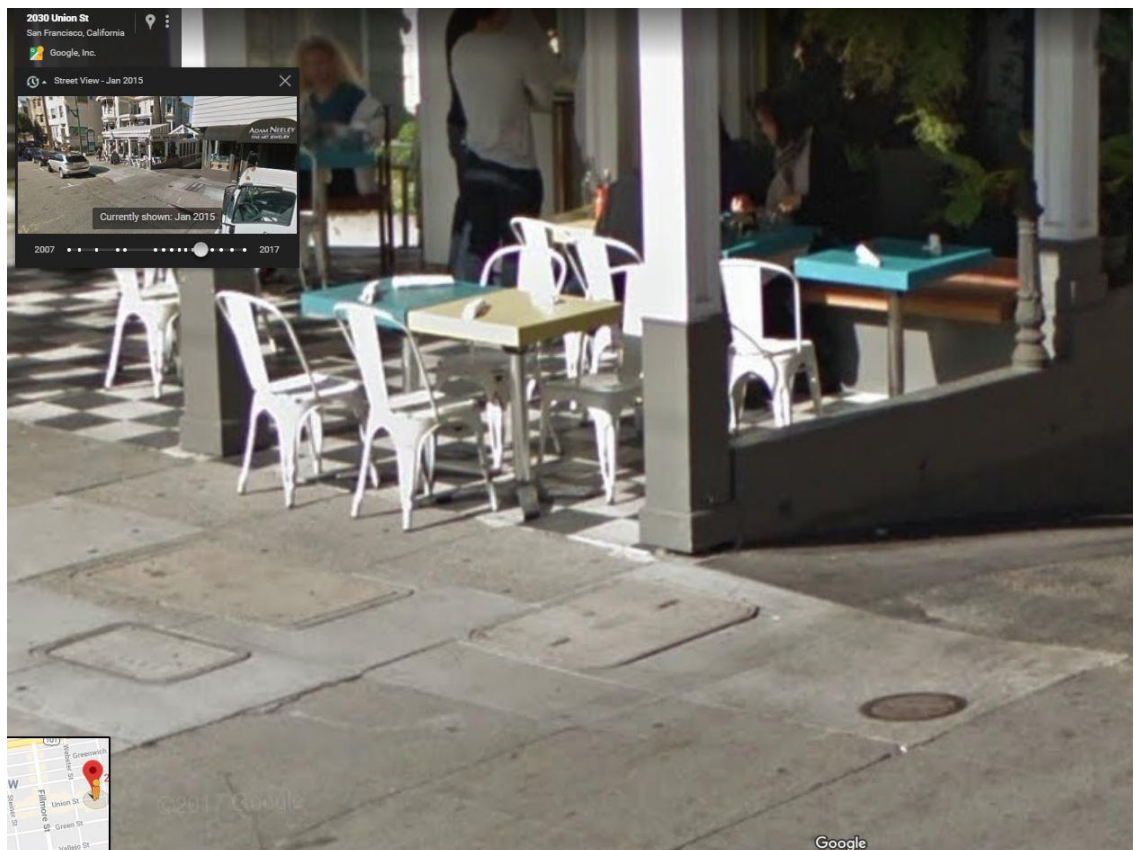


26
27 3. The Gelmans contend the defect in the sidewalk slab seen at the corner of PG&E
28 vault existed well before Marina’s fall. This is a Google Street photo from August 2015 that shows

that same defect in the sidewalk:



This is a Google Street view photo from January 2015 that shows the defect in the sidewalk



1 4. The Gelmans contend the fall shattered Marina's right forearm and caused her other
2 injuries. Mikhail testified at his deposition he was with Marina at the time of her fall. He took her
3 to San Francisco General Hospital ("SFGH"). Marina's SFGH records subpoenaed by the lawyers
4 for Defendant Blue Plantain show that Marina arrived at the emergency department shortly after
5 8:00 p.m. When the doctors in the emergency department saw her arm, they took Marina
6 immediately. She told them she had tripped on the sidewalk and landed with her arms outstretched.
7 She said her pain was 10 on a scale of 10. She was in such pain the nurse was unable to evaluate
8 the pulse in her right arm. Marina was promptly given a morphine injection.

9 The emergency department physicians noted Marina had obvious deformity of the right
10 wrist. The radiologists opined she had an "acute, comminuted fracture of the right distal radius with
11 probable intra-articular extension." The radiologists also noted a "dorsal fracture apex angulation,
12 as well as approximately 6 mm of volar distraction of the distal fracture fragment relative to the
13 proximal fracture fragment," and "[a]dditionally... a mildly displaced fracture of the styloid process
14 of the ulna, [and] marked swelling of the surrounding soft tissues of the wrist." Marina thus had
15 three fractures in her forearm. She could not move her fingers because of her intense pain.

16 The subpoenaed medical records show the SFGH physicians tried to treat Marina's fractures
17 without surgery, but within two weeks they had to operate to reduce the fractures. The Gelmans
18 contend that because of her injuries Marina developed carpal tunnel syndrome and complex regional
19 pain syndrome in her right upper extremity and that she still suffers from these syndromes. At her
20 deposition she testified she has a constant burning and baking sensation in her right hand, arm, and
21 shoulder:

22 My arm is not functioning like it's my arm. It feels like it's not my arm at all. I have
23 a very heavy like baking feeling nonstop inside my arm that somebody like put my
24 arm into the oven and [is] baking it nonstop.

25 Her right hand is her dominant hand. Her injuries have drastically reduced her ability to use her
26 hand and arm. She testified:

27 I cannot do a lot of things. I cannot cook. I cannot – I use a sport bra only. I cannot
28 close my normal bra without help. I cannot wash my hair properly. I cannot brush
my hair. I cannot cut my nails. I cannot use any knife to cut any hard product except
very soft, for example, mozzarella.

1 I cannot – I don't feel it's my hand. It just lives a different life in my body. I always
2 feel it every second.

3 5. The Gelmans filed the Lawsuit with the Superior Court on January 31, 2017. The
4 City and County of San Francisco ("San Francisco"), Pacific Gas & Electric Company ("PG&E"),
5 and Blue Plantain, LLC are the named defendants. The Gelmans served PG&E with the summons
6 and complaint on June 30, 2017. Blue Plantain served its answer to the complaint on July 14, 2017.
7 PG&E. San Francisco served its answer on July 31, 2017 and PG&E served its answer October 10,
8 2017. All parties have demanded a jury trial. San Francisco and Blue Plantain have each cross-
9 complaint against PG&E for indemnity, contribution, and declaratory relief.

10 6. The parties have conducted extensive discovery in the Lawsuit. Marina Gelman has
11 propounded two sets of requests for admissions, four sets of interrogatories, and three sets of requests
12 for production to PG&E and received responses to all this discovery. Marina has propounded one
13 set of requests for admissions, three sets of interrogatories, and three requests for production to San
14 Francisco, and received responses to all of them. Marina has pounded two sets of interrogatories
15 and three sets of requests for production to Blue Plantain and received responses to all of them.
16 PG&E took the depositions of Mikhail and Marina. Blue Plantain had Marina Gelman examined by
17 a physician who specializes in physiatry. Each of the defendants propounded interrogatories and
18 requests for production to Marina and interrogatories to Mikhail. The Gelmans were trying to take
19 the depositions of the defendants' persons most qualified to testify about liability issues. We served
20 the notice of the deposition of PG&E, but PG&E refused to appear for it. We had also served the
21 notice of the deposition of San Francisco. Before we could take that deposition, PG&E filed its
22 bankruptcy petition.

23 7. The Lawsuit was first set for trial on August 27, 2018. The date of the trial was
24 continued to April 22, 2019. The Gelmans were prepared to try the case on April 22, 2019, and we
25 intended to try it then. However, the trial date was continued again at the request of counsel for San
26 Francisco, who requested a continuance for health reasons. The trial is now set on December 16,
27 2019.

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1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

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4 Dated: April 3, 2019

/s/ David W. Wessel

(SBN: 115222)